

The ILO, the Government of Belarus, and Trade Unions: the Unfinished Story of Uneasy Relationships

These days the 96th Session of the International Labor Conference of the International Labor Organization (ILO) continues to discuss the case of Belarus concerning the violation of rights of independent trade unions. In its turn, the Commission of the European Communities has conducted its own investigation and concluded that Belarus should be withdrawn from the Generalized System of Preferences (GSP), which provides preferential access of the Belarusian goods to the European markets. Although the ILO has not been formally responsible for the European Union's (EU) decision, the investigation it has been carrying out since 2000 onwards and its results, have played a role in the EU's decision. The latter, it is believed, would deprive Belarus of as much as EUR 400 million of foreign exchange revenue per annum. Although more grounded and precise estimates provide the figure of about USD 66.6 million maximum and even twice as less, the government seems to be keen to continue its interaction with the ILO. This publication sheds the light onto the direction, content and possible outcomes of these relationships.

The ILO versus the Belarusian government: a short record of uneven interaction

Essentially, the story goes back to 2000. In that year, following the complaint of independent trade unions on violation of their rights and freedoms, the ILO has initiated the Case No. 2090. The complaint has been signed up by the Belarusian Congress of Democratic Trade Unions (BCDTU) and the two unions formerly affiliated with the Federation of Trade Union of Belarus (FTUB) at that time, namely the Radio-Electronics Workers' Union (REP) and the Trade Union of Automobile and Agricultural Machine-Building Workers (ASM). In 2003, the new Head of the FTUB assumed the office and withdrawn the signature of the Federation under the complaint, claiming that there had been no violations whatsoever. Nevertheless, the ILO has continued to keep its eye open for Belarus.

In November 2003, the ILO Governing Body decided to appoint a special Commission of Inquiry in accordance with the Paragraph 26 of its Statute. The Commission arrived in Belarus in May 2004 to conduct an investigation and five months later published a Report on the situation. The Report was overtly unfriendly to the Belarusian government and urged it to implement a number of major recommendations by June 1, 2005. The list included the immediate registration of trade union organizations involved in the complaint and the elimination of all obstacles to the right to organize created by a number of regulations; provision of guaranteed protection to carry out their activities freely for those organizations that have suffered interference in their internal affairs; and the wide dissemination in Belarus of all its conclusions and recommendations made by the ILO and the Commission of Inquiry. Also, it has been demanded that the government should provide the BCDTU full membership in the National Council on Labor and Social Issues (NCLSI). On the basis of the Report, the ILO Governing Body referred the follow-up of the case to the ILO Committee on Freedom of Association. The ILO had then threatened the government with the application of the measures according to the Article 33 of the Constitution of the ILO.

In fact, the government has never publicly expressed that it has no intention to implement the ILO recommendations. Nevertheless, some officials claimed that information provided in the complaint was incorrect. But at the same time, the assistance has been sought from the ILO on the matter of implementation of the recommendations. Later, some positive steps have indeed been taken by the government and have been noted by the ILO Governing Body. Specifically, a representative of the BCDTU has been allocated one seat on the NCLSI, authority for registration of trade union organization has been transferred to the Ministry of Justice and local executive and administrative authorities, and two primary organizations, which do not belong to the FTUB, have been registered, and so on.

But against this background, some new measures have been adopted that seem again to be rather unfriendly to independent trade unions. In particular, in 2006 the FTUB has been granted a nearly-exclusive right to control over the observation of labor relations at enterprises. Also, administration of enterprises has been instructed to conduct special work on encouraging workers to join the FTUB-affiliated trade unions and not the independent ones. Besides that, the government has surreptitiously developed a draft Law on Trade Unions. This legislation has suggested, among other things, new membership thresholds determining representative capacity of trade unions. This draft Law has broadened the agenda for debate between the ILO and the government of Belarus. Representatives of independent trade unions have strongly criticized this Law. Essentially, its adoption would merely imply that independent trade unions would be deprived of an opportunity to represent their members. In its turn, the ILO has examined the draft and suggested that it should be revised. In response, the government has postponed the adoption of discriminatory legislation. In general, the situation around the adoption of new Law has diverted attention from the issue of implementation of the recommendations made earlier. But these two sets of issues should be dealt with separately.

Most likely, the government has initiated the adoption of the Law in order to further undermine the position of independent trade unions. At the same time, the fulfillment of the ILO recommendations does not require any changes in existing legislation, but a mere political will. The latter includes the removal of bureaucratic obstacles and the avoidance of significant delays in registration of independent trade unions. As one of the leaders of independent trade unions has put it, changes cost 'nothing to authorities, there are no material costs at all. No change in legislation is required. What is needed is to abolish all these decrees and regulations that restrict the activity of [independent] trade unions and to stop the pressure' (see <http://www.pracaby.info/site/index.php3?v=news&l=rus&id=6225>).

Unions, workers, and the EU

Some trade union members have expected that the complaint to the ILO would inflict some pressure upon the Belarusian government. Probably, it was believed that the status of the UN agency and the threat to appear among the pariahs of international trade union politics (like Burma) and deviation from international obligations Belarus has assumed by being the ILO member would force the authorities to change their attitude. The ILO Committee on the Application of Standards devoted a 'special paragraph' to Belarus in relation with Convention No. 87 on Freedom of Association and the Protection of the Right to Organize.

Probably, the lack of instruments to impact the situation in the stubborn member of the ILO, has informed the search for alternative routes of influence. In particular, on August 17, 2005, the European Commission adopted a decision to begin a procedure of withdrawal of trade preferences provided to Belarus within the framework of the GSP. This step has very likely been compatible to the efforts deployed by a range of the EU member states to promote democracy

in Belarus. The EU also has few instruments to influence the situation. But as soon as the possibility of withdrawal has been announced, some experts estimated that Belarus might lose up to 10% of its exports to the EU, or about USD 400–500 million. However, a more realistic estimate cuts these figures by more than seven times. The early figure has been obtained by simply multiplying the volume of Belarus exports to the EU by 10%, while the coherent estimate requires a detailed analysis of the structure of Belarusian exports. A more or less grounded estimate has been provided by BISS experts (see more about the GSP and Belarus on BISS website <http://www.belinstitute.eu>).

Nevertheless, the government and the FTUB continue to adhere to an overestimated figure of losses. Apparently, the government does not want to lose preferences provided within the framework of the GSP irrespective of their volume. Most likely, the government counts on the expansion of Belarusian exports to the EU countries, given difficulties with exports of Belarusian goods to Russia.

Recently, claims have been made that workers could lose their jobs because of the withdrawal and this does not help to improve the situation in Belarus. The FTUB has launched a campaign on that – in a very much ‘Soviet’ manner – by disseminating letters to the EU to be signed up by the members of the FTUB-affiliated trade unions. The passionate reaction of independent trade unions has been to remind the FTUB and the government that members of democratic trade unions have lost their jobs prior to that (with low chances to find new ones) because of the pressure of the authorities.

Further prospects

What are the prospects for the relationships between the ILO and the government? It seems that both parties are inclined to reach some sort of compromise. In this case, the ILO could display its ability to promote observation of workers’ rights worldwide, while Belarus would increase its chances to avoid the withdrawal from the GSP or to be included into the framework again. Relatively small volume of possible losses should not be misleading. Losses could become bigger over time, given the increase in the rate of exports growth to the EU countries. Also, for some enterprises even the insignificant loss of foreign exchange revenue could be harmful.

Most likely, it is the involvement of the EU that has encouraged the Belarusian government to be more conscious in its dialogue with the ILO. The relationships between the EU and Belarus, informed by difficulties in the interaction of Belarus and Russia, seem to be important for the Belarusian authorities. Since the relationships between the EU and Belarus are now to some extent conditioned upon the resolution of the Belarusian case at the ILO, the authorities would continue their attempts to deal with this UN agency. It could be expected that some recommendations would be implemented further, albeit very partially and incoherently, and efforts would be deployed to show the readiness to move into this direction. But at the same time, it is very unlikely that the recommendations would be implemented in full. The authorities would attempt to protract the process and erect new barriers to the activities of independent trade unions. As a result, new facets of the bilateral dialogue would be open.